

ADAM K. YOWELL
Nevada Bar No. 11748
Adam.yowell@fisherbroyles.com
FISHERBROYLES, LLP
59 Damonte Ranch Pkwy
Ste B # 508
Reno, NV 89521
Telephone: (775) 230-7364
Counsel for Plaintiff

**UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA**

NEXRF Corp., a Nevada Corporation

Case No.: 3:20-cv-603

Plaintiff,

v.

**COMPLAINT FOR PATENT
INFRINGEMENT**

Playtika Ltd., an Israel Corporation,
Playtika Holding Corp., a Delaware
Corporation, and Caesars Interactive
Entertainment LLC, a Delaware LLC,

DEMAND FOR JURY TRIAL

Defendants.

COMPLAINT FOR PATENT INFRINGEMENT

Plaintiff NEXRF Corp. (“NEXRF”), a Nevada Limited Liability Company (“Plaintiff”) files this Complaint for damages, injunctive relief and demand for a jury trial against Playtika Ltd., Playtika Holding Corp. (collectively “Playtika”), and Caesars Interactive Entertainment, LLC (“CIE”), (collectively “Defendants”), and alleges as follows:

NATURE OF THE CASE

1. NEXRF brings this action against Defendants for infringement of U.S. Patent Nos. 8,747,229 (the ‘229 patent), 8,506,406 (the ‘406 patent), 9,646,454 (the ‘454 patent), 8,506,407 (the ‘407 patent), and 9,373,116 (the ‘116 patent) (collectively, the “patents in suit”).

BACKGROUND

2. The casino gaming industry has sought to create and encourage new ways for patrons to gamble on casino games. While many patrons enjoyed the experience of playing a real slot machine in front of them, many potential gaming patrons were underserved.

1 3. One area of interest to the casino industry was remote gaming, where a patron could
2 play a casino game while not physically sitting in front of and interacting with a typical casino
3 gaming device. Examples of prior art devices included systems where a patron would use a
4 handheld device to “play” a casino game by causing a remotely located but otherwise typical slot
5 machine to spin, and the information about the game outcome and the winnings would be
6 communicated to the player through the handheld device. These devices were flawed. For
7 example, they did not have a strict correlation between the actual game outcome and what the
8 player was shown, and additionally required the operation of a physical slot machine as an input.

9 4. The patents in suit disclose various systems and methods for embodiments of a fully
10 remote, multiplayer capable, secure, and engaging casino-style gaming system. This novel design
11 departed from prior art systems in that it, among other advancements, provided for streamlined
12 media delivery for increased engagement with less resources, increased security to reduce
13 unauthorized use, multiplayer extensibility with improved scaling and reliability, and a flexible
14 infrastructure that could accommodate gambling or social gaming and different types of games.

15 5. The inventive concepts of the patents in suit were unconventional. At the time of
16 the patents in suit, it was not well-understood, conventional, or routine to have, among other
17 distinctions: 1) a central gaming server that determined game outcome, associated that game
18 outcome with an image ID, and transmitted that image/video and game outcome to a remote
19 device; 2) a verification server coupled with a central gaming server to control access to gaming
20 activities; and, 3) an image and/or video delivery component that included relatively fast memory
21 to store and communicate media associated with recently generated game outcomes. These
22 unconventional centralized server-based elements allowed for a stable, secure, flexible, engaging
23 multiplayer-compatible online gaming experience for the user while minimizing the hardware,
24 storage, and network burdens and requirements on the user’s device. This combination of
25 desirable qualities was absent in prior art gaming systems, and providing popular features such as
26 progressive jackpots was made simpler and more flexible by the system of the patents in suit.

27 6. The ‘229 patent contains the additional unconventional element of a payable
28 module associated with the centralized gaming server, which allowed further advantages such as

1 the ability to change game outcome distributions and rewards for all connected devices with any
2 software updates on the device.

3 7. The '407 patent contains the additional unconventional element of a transactional
4 system that credited funds from winning game outcomes to a user's financial account, which
5 increases security of the system and reduced the amount of processing and network activity
6 required of the user's device and its associated software.

7 8. The '116 patent contains the additional unconventional elements of location
8 tracking of the user and providing rewards to the user for their historical play, which increase the
9 security of play and engagement of the user with the game.

10 9. These are just exemplary reasons why the claimed inventions of the patents in suit
11 were not well-understood, routine, or conventional.

12 10. The value and unconventional nature of the claimed inventions of the patents in suit
13 are further demonstrated by the fact that, despite being described nearly twenty years ago, it is
14 only in the last few years that online mobile gambling and social casino gaming have become
15 wide-spread. In those short recent years, however, both mobile casino gambling and social casino
16 gaming have become massive, multi-billion dollar industries.

17 PARTIES

18 11. NEXRF Corp. is a Nevada corporation with a principal place of business at 9190
19 Double Diamond Pkwy, Reno, NV 89521.

20 12. Defendant Playtika Ltd. is a limited company incorporated and existing under the
21 laws of Israel, with its principal place of business at 8 HaChoshlim Street, Herzliya 4672408,
22 Israel. Playtika Ltd. conducts business throughout Nevada and the United States.

23 13. Defendant Playtika Holding Corp. is a corporation incorporated and existing under
24 the laws of Delaware, with its principal place of business at 2225 Village Walk Drive #240,
25 Henderson, Nevada 89052. Playtika Holding Corp. conducts business throughout Nevada and the
26 United States.

27 14. Defendant Caesars Interactive Entertainment, LLC is a limited liability company
28 organized and existing under the laws of Delaware, with its principal place of business at One

1 Caesars Palace Drive, Las Vegas, Nevada 89109. Caesars Interactive conducts business
2 throughout Nevada and the United States.

3 JURISDICTION AND VENUE

4 15. This is a civil action seeking damages and injunctive relief for patent infringement
5 under the patent laws of the United States, Title 35 of the United States Code. This Court has
6 exclusive subject matter jurisdiction over this Complaint pursuant to 28 U.S.C. Sections 1331 and
7 1338(a).

8 16. This Court has personal jurisdiction over Playtika Ltd. Playtika Ltd. directly and
9 through its agents regularly does, solicits, and transacts business in the State of Nevada, including
10 making available the Accused Games (defined below) and related conduct and transactions with
11 co-defendants Playtika Holding Corp. and CIE. Those acts have caused and continue to cause
12 injury to NEXRF.

13 17. This Court has personal jurisdiction over defendants Playtika Holding Corp. and
14 CIE. Each of these entities has its principal place of business in Nevada, and directly and through
15 its agents regularly does, solicits, and transacts business in the State of Nevada. Those acts have
16 caused injury to NEXRF.

17 18. Venue is proper in this District under 28 U.S.C. Sections 1391 and 1400(b).
18 Playtika Ltd. is a foreign corporation, and both Playtika Holding Corp and CIE have regular and
19 established places of business in this District. Playtika Holding Corp. has its principal place of
20 business at 2225 Village Walk Drive #240, Henderson, Nevada 89052. CIE has its principal place
21 of business at One Caesars Palace Drive, Las Vegas, Nevada 89109. Defendants have also
22 committed acts of infringement in this district by selling, using, and/or offering for sale the
23 Accused Games in this District.

24 JOINDER

25 19. In 2011, CIE purchased Playtika Ltd.,¹ and owned and operated Playtika Ltd. for
26 several years until it sold Playtika Ltd. to a Chinese entity, Giant Interactive Group.² The 2016

27 ¹ *Caesars Acquires Israel's Playtika*, Global Gaming Business, <https://ggbmagazine.com/article/caesars-acquires-israels-playtika/> (last visited 10/20/2020).

28 ² *China's Giant leads consortium to buy Playtika for \$4.4 billion*, Game Beat,

1 sale of Playtika did not include the World Series of Poker game or the real-money online gaming
2 business.³

3 20. Playtika has continued to operate CIE-branded games, such as Caesars Casino.⁴
4 The Caesars Rewards program is still associated with other Playtika games, such as Slotomania
5 and Bingo Blitz.⁵

6 21. Playtika and CIE's ongoing relationship relating to many of the Accused Games
7 means that the use of those same games amounts to a single transaction or occurrence as between
8 Defendants. Defendants have been and are acting in concert, and are liable jointly, severally, or
9 otherwise for a right to relief related to or arising out of the same transaction, occurrence, or series
10 of transactions or occurrences related to the making, using, importing into the United States,
11 offering for sale or selling the infringing products in this District. This action involves questions
12 of law and fact that are common to all Defendants.

13 22. Joinder of all Defendants is proper under 35 U.S.C. Section 299(a)(1) & (2).

14 **DEFENDANTS' INFRINGEMENT OF NEXRF'S INTELLECTUAL PROPERTY**

15 23. The recent ubiquity of internet-connected personal devices combined with the
16 unprecedented consequences of the current global pandemic have created a perfect storm for online
17 real-money gambling and social free-to-play gaming.

18 24. Online real-money gaming was recently legalized in a few states, and allows users
19 to wager real money in an online environment similar to a real casino. Online real-money games
20 are associated with a real casino and provide the closest virtual alternative to the physical play of
21 a slot machine in a casino. In the second quarter of 2020 alone, the online casino gambling games
22 market in the US generated over \$400 million in revenue.⁶

23 25. Despite the name, "free-to-play" social casino games are enormously lucrative.

24 <https://venturebeat.com/2016/07/30/chinas-giant-leads-consortium-to-buy-playtika-for-4-4-billion/> (last visited
25 10/20/2020).

³ *Id.*

26 ⁴ Google Play Store page for Caesars Casino: Free Slots Games,
https://play.google.com/store/apps/details?id=com.playtika.caesarscasino&hl=en_US (last visited 10/20/2020).

27 ⁵ Caesars Play Online, <https://www.caesars.com/play> (last visited 10/20/2020).

28 ⁶ Online poker and casino games have tripled their revenue from last year as real-world casinos shut their doors,
Business Insider, <https://www.businessinsider.com/online-poker-casino-games-business-triple-as-casinos-close-2020-8> (last visited 10/20/2020).

1 While the download of the game is free, thousands of “in-app” items range in price from a few
2 cents to hundreds of dollars. These in-app purchases are often subject to heavy discounts in flash
3 sales and are constantly presented to the player. Defendant Playtika alone generated \$425 million
4 in revenue in the first quarter of 2020.⁷ Total revenue for the social casino market are projected to
5 be approximately \$6 billion in 2020. *Id.*

6 26. Defendants provided games in both the real-money and social categories. In the
7 real money category, Defendants have at least the Caesars Casino and Sports App. The Caesars
8 Casino and Sports App is made available to the public at least through the iOS App Store⁸ and the
9 Caesars Casino website.⁹ The Caesars Casino website includes instructions for the download,
10 installation, and account creation steps for the user.¹⁰

11 27. The use, operation, and distribution of the Caesars Casino and Sports App is
12 representative of Defendants’ real money online slot games, which are collectively referred to as
13 the “Accused Gambling Games.” “Accused Gambling Games” includes the game application and
14 the infrastructure necessary to operate the game, such as game servers.

15 28. In the social casino games category, Defendants are some of the leading game
16 publishers. Playtika claims over 280,000,000 installations of its Social Casino Games.¹¹ CIE also
17 claims to be a “leading provider of social slots games for players on iOS and Android devices.”¹²
18 Exemplary social casino games from Defendants include Slotomania, Caesars Casino: Free Slots
19 Games, and Vegas Downtown Slots – Slot Machines & Word Games. The use, operation, and
20 distribution of these exemplar apps is representative of Defendants’ social casino slot games,
21 which are collectively referred to as the “Accused Social Games.” “Accused Social Games”
22 includes the game application and the infrastructure necessary to operate the game, such as game
23 servers. The Accused Gambling Games and the Accused Social Games are, collectively, the
24

25 ⁷ *No slots, no problem: Social gaming steps in to fill the empty space*, CDC Gaming Reports,
26 [https://www.cdcgamingreports.com/commentaries/no-slots-no-problem-social-gaming-steps-in-to-fill-the-empty-](https://www.cdcgamingreports.com/commentaries/no-slots-no-problem-social-gaming-steps-in-to-fill-the-empty-space/)
space/ (last visited 10/20/2020).

27 ⁸ <https://apps.apple.com/us/app/caesars-casino-sportsbook-nj/id876336616> (last visited 10/20/2020).

28 ⁹ <https://www.caesarscasino.com/> (last visited 10/20/2020).

¹⁰ <https://www.caesarscasino.com/p/mobile-casino/> (last visited 10/20/2020).

¹¹ <https://play.google.com/store/apps/dev?id=8370476508159322879&hl=en&gl=US> (last visited 10/20/2020).

¹² <https://www.caesarsgames.com/2018/08/30/can-you-win-real-money-on-slot-apps/> (last visited 10/20/2020).

1 “Accused Games.”

2 **COUNT I – INFRINGEMENT OF U.S. PATENT NO. 8,747,229**

3 **(Against all Defendants)**

4 29. Paragraphs 1 through 28 are incorporated herein by reference.

5 30. U.S. Patent No. 8,747,229, titled “Gaming System Network and Method for
6 Delivering Gaming Media,” was duly and lawfully issued by the United States Patent and
7 Trademark Office on June 10, 2014. A true and correct copy of the ‘229 patent is attached as
8 Exhibit 1.

9 31. NEXRF is the owner by assignment of all rights, title, and interest in the ‘229
10 patent, including the right to bring this suit for past and future damages and/or injunctive relief.

11 32. The ‘229 patent is valid and enforceable.

12 33. Defendants infringe one or more claims of the ‘229 patent, including but not limited
13 to claim 1, directly and/or indirectly via induced infringement and/or contributory infringement.
14 Defendants infringe the asserted claims of the ‘229 patent by making, using, importing, selling for
15 importation, and/or selling after importation into the United States at least the Accused Games in
16 violation of 35 U.S.C. Section 271(a)-(b). The Accused Games satisfy all limitations of the
17 asserted claims of the ‘229 patent at least when the respective game is made available for download
18 and play by a user, or after being installed by a user, or after being installed and played by a user.

19 34. Defendants had actual knowledge of the ‘229 patent or were willfully blind to its
20 existence and their infringement no later than the filing of this action. Defendants’ ongoing
21 infringement is willful and deliberate, entitling NEXRF to enhanced damages.

22 35. Defendants directly infringe the asserted claims of the ‘229 patent by making,
23 using, offering to sell, or selling the Accused Games in the United States in violation of 35 U.S.C.
24 Section 271(a). Claim 1 of the ‘229 patent is exemplary and recites:

- 25 1. A gaming server system configured to communicate with at least one network
26 access device communicatively coupled to a network, the gaming server system
comprising:
27 a verification system configured to access a registration database having a
28 plurality of registration data associated with each registered user;
a memory module configured to store a plurality of images corresponding to
at least one game outcome that are communicated to the at least one network access
device;

1 a centralized gaming server communicatively coupled to each of the at least
2 one network access device, the centralized gaming server configured to generate at
least one random game outcome by random generation at the centralized gaming
server;

3 a payable module associated with the centralized gaming server, the
payable module configured to determine one or more prizes associated with a game
outcome; and

4 the centralized gaming server configured to access the memory module and
5 communicate the plurality of images corresponding to the at least one random game
outcome to the at least one network access device.

6 36. Defendants infringe claim 1 for at least the following reasons:

7 37. To the extent the preamble is limiting, the Accused Games comprise a gaming
8 server system configured to communicate with at least one network access device
9 communicatively coupled to a network.

10 38. On information and belief, the Accused Games include a verification system
11 configured to access a registration database having a plurality of registration data associated with
12 each registered user. The Accused Games allow and/or require a user to register for a user account,
13 which includes the transmission of registration that may include the player's name, user name,
14 password, Facebook account, and/or other registration data. The Accused Gambling Games also
15 require more substantive registration data to comply with online gambling regulations. The user
16 registration data is stored in a database in a verification system such that the registration data is
17 associated with the registered user.

18 39. On information and belief, the Accused Games include a memory configured to
19 store a plurality of images corresponding to at least one game outcome that are communicated to
20 the at least one network access device. For example, the Accused Games display celebration
21 graphics and text and/or the display of the slot machine reels when the player achieves certain
22 winning outcomes, such as a winning slot machine spin. At least some of those images are
23 transmitted to the user device over normal internet protocols after the particular game is installed.

24 40. On information and belief, the Accused Games include a centralized gaming server
25 communicatively coupled to each of the at least one network access device, the centralized gaming
26 server configured to generate at least one random game outcome by random generation at the
27 centralized gaming server. For example, the Accused Games include one or more servers that
28 players connect to in order to play the games, and which generate at least some game outcomes

1 for players playing the game. These game outcomes are generated using a random number
 2 generator (“RNG”). For the Accused Gambling Games, the RNG game outcome determination is
 3 required by regulations to be conducted at a centralized server.

4 41. On information and belief, the Accused Games include a payable module
 5 associated with the centralized gaming server, the payable module configured to determine one
 6 or more prizes associated with a game outcome. For example, each slot skin playable on an
 7 Accused Game has a payable, and those paytables can often be displayed to the user if the user
 8 performs certain commands. These paytables comprise a matrix of game outcomes, such as slot
 9 reel positions, and the resulting prize, such as a multiple of a bet, a jackpot, free spins, a bonus
 10 game, or nothing.

11 42. On information and belief, the centralized gaming server(s) of the Accused Games
 12 are configured to access the memory module and communicate the plurality of images
 13 corresponding to the at least one random game outcome to the at least one network access device.
 14 For example, the mobile application for the particular Accused Game is first downloaded from the
 15 appropriate mobile application store, such as the Apple App Store or Google Play. However, after
 16 the mobile app is downloaded and installed, additional graphical assets are downloaded for display
 17 to the player, including some that are downloaded contemporaneously with play. At least some of
 18 these post-install graphical assets are communicated to the user device from the centralized gaming
 19 server(s). NEXRF has and continues to be damaged by the Defendants’ infringement of the ‘229
 20 patent.

21 **COUNT II – INFRINGEMENT OF U.S. PATENT NO. 8,506,406**

22 **(Against all Defendants)**

23 43. Paragraphs 1 through 42 are incorporated herein by reference.

24 44. U.S. Patent No. 8,506,406, titled “Network Access Device and Method to Run a
 25 Game Application,” was duly and lawfully issued by the United States Patent and Trademark
 26 Office on August 13, 2013. A true and correct copy of the ‘406 patent is attached as Exhibit 2.

27 45. NEXRF is the owner by assignment of all rights, title, and interest in the ‘406
 28 patent, including the right to bring this suit for past and future damages and/or injunctive relief.

46. The '406 patent is valid and enforceable.

47. Defendants infringe one or more claims of the '406 patent, including but not limited to claim 1, directly and/or indirectly via induced infringement and/or contributory infringement. Defendants infringe the asserted claims of the '406 patent by making, using, importing, selling for importation, and/or selling after importation into the United States at least the Accused Games in violation of 35 U.S.C. Section 271(a)-(b). The Accused Games satisfy all limitations of the asserted claims of the '406 patent at least when the respective game is made available for download and play by a user, or after being installed by a user, or after being installed and played by a user.

48. Defendants had actual knowledge of the '406 patent or were willfully blind to its existence and their infringement no later than the filing of this action. Defendants' ongoing infringement is willful and deliberate, entitling NEXRF to enhanced damages.

49. Defendants directly infringe the asserted claims of the '406 patent by making, using, offering to sell, or selling the Accused Games in the United States in violation of 35 U.S.C. Section 271(a). Defendants directly infringe the asserted claims of the '406 patent, at minimum, through use of the system for testing. Claim 1 of the '406 patent is exemplary and recites:

1. A system to run a gaming application on a network access device, comprising:
 - the network access device; and
 - a remote gaming system including a verification system;
 - the network access device configured to transmit user identification information and security information to the verification system;
 - the network access device configured to receive an acknowledgement from the verification system indicating that the user identification information and security information are valid;
 - the network access device configured to receive a game input from a user of the network access device and transmit the game input to the remote gaming system;
 - the remote gaming system configured to receive the game input and generate a random game output, the remote gaming system further configured to associate an image ID with the random game output and select one or more images associated with the image ID for encoding and broadcasting to the network access device;
 - the network access device configured to receive a plurality of broadcast images generated by the remote gaming system.

50. Defendants infringe claim 1 for at least the following reasons:

51. To the extent the preamble is limiting, the Accused Games as operated include a system to run a gaming application on a network access device.

52. On information and belief, the Accused Games, in operation, include a network access device such as a phone or laptop.

1 53. On information and belief, the Accused Games include a remote gaming system
2 including a verification system. For example, the Accused Games allow and/or require a user to
3 register for a user account and log into a central gaming server system in order to play the games.

4 54. On information and belief, the Accused Games include that the network access
5 device is configured to transmit user identification information and security information to the
6 verification system. For example, the Accused Games when operated on a user device collect and
7 transmit registration data that may include the player's name, user name, password, and other
8 registration data to the verification system.

9 55. On information and belief, the Accused Games include that the network access
10 device is configured to receive an acknowledgement from the verification system indicating that
11 the user identification information and security information are valid. For example, the
12 verification system of the central gaming server system sends a message to the Accused Game
13 application running on a user device that the login information is verified, and the login is allowed
14 to complete and the user to play the game.

15 56. On information and belief, the Accused Games include that the network access
16 device is configured to receive a game input from the user and transmit the game input to the
17 remote gaming system. For example, an Accused Game on a user device will receive an input,
18 such as a touch input, of a user selecting an action, such as touching or clicking the spin button in
19 the game. This input is then transmitted by the Accused Game application to the remote gaming
20 server system and the inputted command is executed, such as by initiating the play of the game.

21 57. On information and belief, the Accused Games include that the remote gaming
22 system is configured to receive the game input and generate a random game output, the remote
23 gaming system further configured to associate an image ID with the random game output and
24 select one or more images associated with the image ID for encoding and broadcasting to the
25 network access device. For example, the Accused Games include one or more servers that players
26 connect to in order to play the games, and which generate at least some game outcomes for players
27 playing the game. These game outcomes will be generated after the player initiates play, which is
28 communicated to the gaming server from the Accused Game application running on the user

1 device. These game outcomes are generated using a RNG. For the Accused Gambling Games,
2 the RNG game outcome determination is required by regulations to be conducted at a centralized
3 server. The central gaming server system further associates the generated game outcome with an
4 image ID, such as a celebratory graphic for a winning spin, or the icons on the virtual slot reels.
5 These images are then encoded and transmitted to the user device over the internet.

6 58. On information and belief, the Accused Games include that the network access
7 device is configured to receive a plurality of broadcast images generated by the remote gaming
8 system. The Accused Game application running on the user device includes instructions sufficient
9 for the user device to be configured to receive the broadcast images from the central gaming server
10 system and display one or more of those images to the user.

11 59. Defendants directly infringe the asserted claims of the '406 patent because they use
12 the system as a whole and put it into service. Defendants or their agents supply every component
13 of the system except the user device, to the extent that is a required element of an asserted claim.
14 Further, Defendants' applications on a user device control all claimed components, configurations,
15 functions, and processes, which constitutes sufficient control over the user device.

16 60. In addition, Defendants are vicariously liable for the actions of its customers
17 because the only action required of a user is to play the Accused Game. Defendants condition the
18 benefits of playing the game upon the act of the player to actually play the game. In other words,
19 the player can never win if they do not play. Further, Defendants exercise the requisite control
20 over the manner and/or timing of the user's actions as it relates to the user's network access device.
21 Specifically, the player cannot play the game without running Defendants' application, and further
22 restrictions exist such as the requirement of an internet connection to Defendants' servers, logging
23 in to a user account, and other restrictions. This is particularly apparent for the Accused Gambling
24 Games, as gaming regulations require additional controls such as geofencing.

25 61. Additionally or alternatively, Defendants indirectly infringe the asserted claims of
26 the '406 patent through its users' actions. Defendants contributorily infringe the asserted claims
27 of the '406 patent by making available for use the Accused Games, knowing the same to be
28 especially made or especially adapted for use in infringing the '406 patent, and not a staple article

1 or commodity of commerce suitable for substantial noninfringing use. The play of the Accused
 2 Game is an act of infringement, and so the Accused Games are not staple articles of commerce or
 3 otherwise capable of substantial noninfringing use.

4 62. Additionally or alternatively, Defendants actively, knowingly, and intentionally
 5 induce the infringement of the asserted claims of the ‘406 patent by actively encouraging its users
 6 to use the Accused Games by playing them. Defendants know, at least as of the date of this
 7 Complaint, that their actions will induce users of the Accused Games to directly infringe the
 8 asserted claims of the ‘406 patent. Those users then directly infringe the asserted claims of the
 9 ‘406 patent. For example, Defendants provide instructions to users on how to access the Accused
 10 Games and play the Accused Games and otherwise instructing and encouraging players to play the
 11 Accused Games, an act which directly infringes the asserted claims of the ‘406 patent.¹³

12 63. NEXRF has and continues to be damaged by the Defendants’ infringement of the
 13 ‘406 patent.

14 **COUNT III – INFRINGEMENT OF U.S. PATENT NO. 9,646,454**

15 **(Against all Defendants)**

16 64. Paragraphs 1 through 63 are incorporated herein by reference.

17 65. U.S. Patent No. 9,646,454, titled “Networked Gaming System and Method,” was
 18 duly and lawfully issued by the United States Patent and Trademark Office on May 9, 2017. A
 19 true and correct copy of the ‘454 patent is attached as Exhibit 3.

20 66. NEXRF is the owner by assignment of all rights, title, and interest in the ‘454
 21 patent, including the right to bring this suit for past and future damages and/or injunctive relief.

22 67. The ‘454 patent is valid and enforceable.

23 68. Defendants infringe one or more claims of the ‘454 patent, including but not limited
 24 to claim 1, directly and/or indirectly via induced infringement and/or contributory infringement.
 25 Defendants infringe the asserted claims of the ‘454 patent by making, using, importing, selling for
 26 importation, and/or selling after importation into the United States at least the Accused Games in

27 ¹³ See, e.g., *Guide for How to Play Free Slots Online*, <https://www.caesarsgames.com/free-slot-games/> (last visited
 28 10/20/2020), attached as Exhibit 6; *Slotomania: How to Play Slots* <https://www.slotomania.com/how-to-play/> (last
 visited 10/20/2020), attached as Exhibit 7.

1 violation of 35 U.S.C. Section 271(a)-(b). The Accused Games satisfy all limitations of the
 2 asserted claims of the '454 patent at least when the respective game is made available for download
 3 and play by a user, or after being installed by a user, or after being installed and played by a user.

4 69. Defendants had actual knowledge of the '454 patent or were willfully blind to its
 5 existence and their infringement no later than the filing of this action. Defendants' ongoing
 6 infringement is willful and deliberate, entitling NEXRF to enhanced damages.

7 70. Defendants directly infringe the asserted claims of the '454 patent by making,
 8 using, offering to sell, or selling the Accused Games in the United States in violation of 35 U.S.C.
 9 Section 271(a). Claim 1 of the '454 patent is exemplary and recites:

10 1. A networked gaming system comprising:

11 a user identification received by at least one network access device that is compared
 12 with registration data in a registration database, wherein a player is provided access to a
 13 game when the user identification matches the registered player data;

14 a transactional component that charges the registered player at least one credit for
 15 a game outcome;

16 a centralized networked gaming module that performs game operations and
 17 generates at least one random game output by random generation at the networked gaming
 18 module;

19 the networked gaming module associates the at least one random game output with
 20 an image ID; and

21 the networked gaming module communicates one or more images corresponding
 22 to the image ID to the network access device.

23 71. Defendants infringe claim 1 for at least the following reasons:

24 72. To the extent the preamble is limiting, the Accused Games comprise a networked
 25 gaming system.

26 73. On information and belief, the Accused Games include a user identification
 27 received by at least one network access device that is compared with registration data in a
 28 registration database, wherein a player is provided access to a game when the user identification
 matches the registered player data. For example, the Accused Games allow or require a user to
 log onto the game by providing a username and password, a Facebook account, or similar. This
 constitutes user identification information that is compared by the game system to the database of
 registered users, and when an appropriate match is found the player is allowed to log in and access
 the game.

74. On information and belief, the Accused Games include a transactional component

1 that charges the registered player at least one credit for a game outcome. For example, the Accused
2 Games that include a slot embodiment require a credit wager of some amount, which is often
3 selectable within a range by the player. These credits may represent actual currency or not,
4 depending on the particular game. Once the slot machine reel is spun and so the game initiated,
5 the initial wager of credit(s) is deducted from the player's store of credits.

6 75. On information and belief, the Accused Games include a centralized networked
7 gaming module that performs game operations and generates at least one random game output by
8 random generation at the networked gaming module. For example, the Accused Games include
9 one or more servers that players connect to in order to play the games, and which generate at least
10 some game outcomes for players playing the game. These game outcomes are generated using a
11 RNG. For the Accused Gambling Games, the RNG game outcome determination is required by
12 regulations to be conducted at a centralized server.

13 76. On information and belief, the Accused Games' centralized networked gaming
14 module further associates the at least one random game output with an image ID. For example, in
15 the Accused Games a winning game outcome will have celebratory graphic media for display to
16 the player. The appropriate celebratory graphic media is associated to the game outcome by the
17 centralized gaming server of the Accused Games.

18 77. On information and belief, the Accused Games' networked gaming module
19 communicates one or more images corresponding to the image ID to the network access device.
20 For example, the Accused Games transmit the appropriate celebratory graphic media for the
21 particular game outcome to the player's device over normal internet protocols.

22 78. Defendants directly infringe the asserted claims of the '454 patent because they use
23 the system as a whole and put it into service. Defendants or their agents supply every component
24 of the system except the user device, to the extent that is a required element of an asserted claim.
25 Further, Defendants' applications on a user device control all claimed components, configurations,
26 functions, and processes, which constitutes sufficient control over the user device.

27 79. In addition, Defendants are vicariously liable for the actions of its customers
28 because the only action required of a user is to play the Accused Game. Defendants condition the

benefits of playing the game upon the act of the player to actually play the game. In other words, the player can never win if they do not play. Further, Defendants exercise the requisite control over the manner and/or timing of the user's actions as it relates to the user's network access device. Specifically, the player cannot play the game without running Defendants' application, and further restrictions exist such as the requirement of an internet connection to Defendants' servers, logging in to a user account, and other restrictions. This is particularly apparent for the Accused Gambling Games, as gaming regulations require additional controls such as geofencing.

80. Additionally or alternatively, Defendants indirectly infringe the asserted claims of the '454 patent through its users' actions. Defendants contributorily infringe the asserted claims of the '454 patent by making available for use the Accused Games, knowing the same to be especially made or especially adapted for use in infringing the '454 patent, and not a staple article or commodity of commerce suitable for substantial noninfringing use. The play of the Accused Game is an act of infringement, and so the Accused Games are not staple articles of commerce or otherwise capable of substantial noninfringing use.

81. Additionally or alternatively, Defendants actively, knowingly, and intentionally induce the infringement of the asserted claims of the '454 patent by actively encouraging its users to use the Accused Games by playing them. Defendants know, at least as of the date of this Complaint, that their actions will induce users of the Accused Games to directly infringe the asserted claims of the '454 patent. Those users then directly infringe the asserted claims of the '454 patent. For example, Defendants provide instructions to users on how to access the Accused Games and play the Accused Games and otherwise instructing and encouraging players to play the Accused Games, an act which directly infringes the asserted claims of the '454 patent.¹⁴

82. NEXRF has and continues to be damaged by the Defendants' infringement of the '454 patent.

COUNT IV – INFRINGEMENT OF U.S. PATENT NO. 8,506,407

(Against all Defendants)

83. Paragraphs 1 through 82 are incorporated herein by reference.

¹⁴ Ex. 6; Ex. 7.

84. U.S. Patent No. 8,506,407, titled “Gaming System Network and Method for Delivering Gaming Media,” was duly and lawfully issued by the United States Patent and Trademark Office on August 13, 2013. A true and correct copy of the ‘407 patent is attached as Exhibit 4.

85. NEXRF is the owner by assignment of all rights, title, and interest in the ‘407 patent, including the right to bring this suit for past and future damages and/or injunctive relief.

86. The ‘407 patent is valid and enforceable.

87. Defendants infringe one or more claims of the ‘407 patent, including but not limited to claim 1, directly and/or indirectly via induced infringement and/or contributory infringement. Defendants infringe the asserted claims of the ‘407 patent by making, using, importing, selling for importation, and/or selling after importation into the United States at least the Accused Gambling Games in violation of 35 U.S.C. Section 271(a)-(b). The Accused Gambling Games satisfy all limitations of the asserted claims of the ‘407 patent at least when the respective game is made available for download and play by a user, or after being installed by a user, or after being installed and played by a user.

88. Defendants had actual knowledge of the ‘407 patent or were willfully blind to its existence and their infringement no later than the filing of this action. Defendants’ ongoing infringement is willful and deliberate, entitling NEXRF to enhanced damages.

89. Defendants directly infringe the asserted claims of the ‘407 patent by making, using, offering to sell, or selling the Accused Gambling Games in the United States in violation of 35 U.S.C. Section 271(a). Claim 1 of the ‘407 patent is exemplary and recites:

1. A gaming system network, comprising:

a verification system configured to verify that a user attempting to access the gaming system network is a registered player, the user operating a network access device communicating with the gaming system network;

a gaming system configured to generate at least one random game output, the gaming system configured to associate an image ID with the at least one random game output;

a video server configured to store a plurality of images corresponding to at least one game, the video server configured to retrieve one or more images associated with the image ID, wherein the one or more images are representative of a game output, the video server configured to communicate the one or more images to the network access device; and

a transactional system configured to credit monetary funds to a financial account of the user based on the at least one random game output.

1 90. Defendants infringe claim 1 for at least the following reasons:

2 91. To the extent the preamble is limiting, the Accused Gambling Games comprise a
3 gaming system network.

4 92. On information and belief, the Accused Gambling Games include a verification
5 system configured to verify that a user attempting to access the gaming system network is a
6 registered player, the user operating a network access device communicating with the gaming
7 system network. For example, the Accused Gambling Games require a player to create an account
8 and register with the system. In order to play the games, the user must enter verification
9 information on their user device, such as a smartphone, which the Accused Gambling Games
10 verify before allowing play.

11 93. On information and belief, the Accused Gambling Games include a gaming system
12 configured to generate at least one random game output, the gaming system configured to associate
13 an image ID with the at least one random game output. For example, the Accused Gambling
14 Games include one or more servers that players connect to in order to play the games. These game
15 outcomes are generated using a RNG. The RNG game outcome determination is required by
16 regulations to be conducted at a centralized server for real money gaming applications such as the
17 Accused Gambling Games. Further in the Accused Gambling Games a winning game outcome
18 will have celebratory graphic media for display to the player. The appropriate celebratory graphic
19 media is associated to the game outcome by the centralized gaming server of the Accused Games.

20 94. On information and belief, the Accused Gambling Games include a video server
21 configured to store a plurality of images corresponding to at least one game, the video server
22 configured to retrieve one or more images associated with the image ID, wherein the one or more
23 images are representative of a game output, the video server configured to communicate the one
24 or more images to the network access device. For example, the Accused Gambling Games' server
25 system includes a component that transmits images and/or video to the player device. These
26 graphics are associated with particular game outcomes, such as a winning spin, a jackpot win, and
27 the like. The Accused Gambling Games' server system is further configured to determine a
28 graphic that is associated with a particular game outcome, retrieve it, prepare it for transmission to

1 the user device, and transmit it to the user device according to normal internet communication
2 protocols.

3 95. On information and belief, the Accused Gambling Games further include a
4 transactional system configured to credit monetary funds to a financial account of the user based
5 on the at least one random game output. For example, in order to play the games the user first
6 needs a source of funds, which could include linking a credit card or bank account to the user's
7 account. If, during play, the user wins a game and therefore some amount of credits representing
8 monetary value, those monetary funds are then transferred back to the user's financial account,
9 which could be the user's game account, a bank account, or similar, upon cashing out.

10 96. NEXRF has and continues to be damaged by the Defendants' infringement of the
11 '407 patent.

12 **COUNT V – INFRINGEMENT OF U.S. PATENT NO. 9,373,116**

13 **(Against all Defendants)**

14 97. Paragraphs 1 through 96 are incorporated herein by reference.

15 98. U.S. Patent No. 9,373,116, titled "Player Tracking Using a Wireless Device for a
16 Casino Property," was duly and lawfully issued by the United States Patent and Trademark Office
17 on January 1, 2016. A true and correct copy of the '116 patent is attached as Exhibit 5.

18 99. NEXRF is the owner by assignment of all rights, title, and interest in the '116
19 patent, including the right to bring this suit for past and future damages and/or injunctive relief.

20 100. The '116 patent is valid and enforceable.

21 101. Defendants infringe one or more claims of the '116 patent, including but not limited
22 to claim 1, directly and/or indirectly via induced infringement and/or contributory infringement.
23 Defendants infringe the asserted claims of the '116 patent by making, using, importing, selling for
24 importation, and/or selling after importation into the United States at least the Accused Gambling
25 Games in violation of 35 U.S.C. Section 271(a)-(b). The Accused Gambling Games satisfy all
26 limitations of the asserted claims of the '116 patent at least when the respective game is made
27 available for download and play by a user, or after being installed by a user, or after being installed
28 and played by a user.

102. Defendants had actual knowledge of the ‘116 patent or were willfully blind to its existence and their infringement no later than the filing of this action. Defendants’ ongoing infringement is willful and deliberate, entitling NEXRF to enhanced damages.

103. Defendants directly infringe the asserted claims of the ‘116 patent by making, using, offering to sell, or selling the Accused Gambling Games in the United States in violation of 35 U.S.C. Section 271(a). Claim 1 of the ‘116 patent is exemplary and recites:

1. An interactive gaming system for a casino property, the interactive gaming system comprising:

a wireless device associated with a registered user, wherein the wireless device is used to determine a location of the registered user and the wireless device communicates with a network using at least one wireless networking protocol;

a verification system that accesses a registration database having registration data associated with each registered user;

a centralized gaming server communicatively coupled to the wireless device, the centralized gaming server generates at least one random game outcome;

a memory module that stores a plurality of images corresponding to the at least one game outcome that are communicated to the wireless device;

the centralized gaming server accesses the memory module and communicates the plurality of images corresponding to the random game outcome to the wireless device; and a casino player tracking system that includes,

a registered user profile that further includes a plurality of user preferences,

a record of a plurality of accumulated points associated with a betting activity of the registered user, wherein the betting activity is associated with the random outcomes generated by the centralized gaming server,

at least one complimentary good or service corresponding to the accumulated points associated with the registered user; and

a plurality of messages generated by the casino player tracking system for the wireless device regarding the complementary goods or services.

104. Defendants infringe claim 1 for at least the following reasons:

105. To the extent the preamble is limiting, the Accused Gambling Games comprise an interactive gaming system for a casino property.

106. On information and belief, the Accused Gambling Games in operation include a wireless device associated with a registered user, wherein the wireless device is used to determine a location of the registered user and the wireless device communicates with a network using at least one wireless networking protocol. For example, the Accused Gambling Games can be played by a user on their smartphone. Pursuant to regulation, the user device must be able to have its location determined to be within a gaming jurisdiction via geofencing. The user’s wireless device communicates with the Accused Gambling Games’ server wirelessly, using a standard wireless networking protocol, such as Wi-Fi.

1 107. On information and belief, the Accused Gambling Games include a verification
2 system that accesses a registration database having registration data associated with each registered
3 user. For example, the Accused Gambling Games require a player to create an account and register
4 with the system. In order to play the games, the user must enter verification information on their
5 user device, such as a smartphone, which the Accused Gambling Games verify before allowing
6 play.

7 108. On information and belief, the Accused Gambling Games include a centralized
8 gaming server communicatively coupled to the wireless device, the centralized gaming server
9 generates at least one random game outcome. For example, the Accused Gambling Games include
10 one or more servers that players connect to via the internet in order to play the games. These game
11 outcomes are generated using a RNG. The RNG game outcome determination is required by
12 regulations to be conducted at a centralized server for real money gaming applications such as the
13 Accused Gambling Games.

14 109. On information and belief, the Accused Gambling Games' server system includes
15 a memory module that stores a plurality of images corresponding to the at least one game outcome
16 that are communicated to the wireless device. For example, the Accused Gambling Games' server
17 system includes a component that transmits images and/or video to the player device over normal
18 internet protocols. These graphics are stored in the server system's memory module and associated
19 with particular game outcomes, such as a winning spin, a jackpot win, and the like. The Accused
20 Gambling Games' server system is further configured to determine a graphic that is associated
21 with a particular game outcome, retrieve it, prepare it for transmission to the user device, and
22 transmit it to the user device according to normal internet protocols.

23 110. On information and belief, the Accused Gambling Games' centralized server
24 system accesses the memory module and communicates the plurality of images corresponding to
25 the random game outcomes to the wireless devices. For example, the Accused Gambling Games'
26 server system is configured to determine a graphic that is associated with a particular game
27 outcome, access it at the memory module, prepare it for transmission to the user device, and
28 transmit it to the wireless user device according to normal internet protocols.

111. On information and belief, the Accused Gambling Games include a player tracking system. For example, the Caesars Rewards component of the Accused Gambling Games track player activities.

112. On information and belief, the Accused Gambling Games' player tracking system includes a registered user profile that includes a plurality of user preferences. For example, in the Caesars Rewards program user preferences could include payment options, credit lines, links to local casino accounts, reward point swaps, price alerts, and similar.

113. On information and belief, the Accused Gambling Games' player tracking system includes a record of a plurality of accumulated points associated with a betting activity of the registered user, where the betting activity is associated with the random outcomes generated by the centralized gaming server. For example, the Caesars Rewards program tracks player play that includes betting activity in the Accused Gambling Games and assigns reward points based upon that play.

114. On information and belief, the Accused Gambling Games' player tracking system includes providing at least one complimentary good or service corresponding to the accumulated points associated with the registered user. For example, some Caesars Rewards benefits include free hotel stays, a free night in Las Vegas or Atlantic City, a free dinner, free valet parking, and free casino game play. These rewards are associated with various levels of player reward points that the player has accumulated.

115. On information and belief, the Accused Gambling Games' player tracking system includes a plurality of messages generated by the casino player tracking system for the wireless device regarding the complementary goods or services. For example, these messages may include emails, texts, phone notifications, browser notifications, and in-app notifications to the user when a reward is available or redeemed.

116. Defendants directly infringe the asserted claims of the '116 patent because they use the system as a whole and put it into service. Defendants or their agents supply every component of the system except the user device, to the extent that is a required element of an asserted claim. Further, Defendants' applications on a user device control all claimed components, configurations,

1 functions, and processes, which constitutes sufficient control over the user device.

2 117. In addition, Defendants are vicariously liable for the actions of its customers
 3 because the only action required of a user is to play the Accused Gambling Game. Defendants
 4 condition the benefits of playing the game upon the act of the player to actually play the game. In
 5 other words, the player can never win if they do not play. Further, Defendants exercise the
 6 requisite control over the manner and/or timing of the user's actions as it relates to the user's
 7 network access device. Specifically, the player cannot play the game without running Defendants'
 8 application, and further restrictions exist such as the requirement of an internet connection to
 9 Defendants' servers, logging in to a user account, and other restrictions such as geofencing.

10 118. Additionally or alternatively, Defendants indirectly infringe the asserted claims of
 11 the '116 patent through its users' actions. Defendants contributorily infringe the asserted claims
 12 of the '116 patent by making available for use the Accused Gambling Games, knowing the same
 13 to be especially made or especially adapted for use in infringing the '116 patent, and not a staple
 14 article or commodity of commerce suitable for substantial noninfringing use. The play of the
 15 Accused Gambling Game is an act of infringement, and so the Accused Gambling Games are not
 16 staple articles of commerce or otherwise capable of substantial noninfringing use.

17 119. Additionally or alternatively, Defendants actively, knowingly, and intentionally
 18 induce the infringement of the asserted claims of the '116 patent by actively encouraging its users
 19 to use the Accused Games by playing them. Defendants know, at least as of the date of this
 20 Complaint, that their actions will induce users of the Accused Gambling Games to directly infringe
 21 the asserted claims of the '116 patent. Those users then directly infringe the asserted claims of the
 22 '116 patent. For example, Defendants provide instructions to users on how to access the Accused
 23 Games and play the Accused Gambling Games and otherwise instructing and encouraging players
 24 to play the Accused Gambling Games, an act which directly infringes the asserted claims of the
 25 '116 patent.¹⁵

26 120. NEXRF has and continues to be damaged by the Defendants' infringement of the
 27 '116 patent.

28 ¹⁵ Ex. 6; Ex. 7.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff seeks the following relief:

- A. Judgment in NEXRF's favor and against Defendants on all causes of action alleged herein;
- B. Damages in an amount to be determined at trial, including trebling of all post-filing damages awarded with respect to infringement of the patents in suit;
- C. Judgment that this is an exceptional case;
- D. Costs of suit incurred herein;
- E. Prejudgment interest;
- F. Attorneys' fees and costs; and
- G. Such other and further relief as the Court may deem to be just and proper.

DEMAND FOR JURY TRIAL

Pursuant to Rule 38(b) of the Federal Rules of Civil Procedure, NEXRF respectfully demands a trial by jury on all issues triable by Jury.

DATED this 26th day of October 2020.

Respectfully submitted,

FISHERBROYLES, LLP

/s/ Adam Yowell

ADAM YOWELL
Nevada Bar No. 11748
59 Damonte Ranch Pkwy
Ste B # 508
Reno, NV 89521
Telephone: (775) 230-7364
Counsel for Plaintiff